

ATTORNEYS AT LAW

125 BROAD STREET, 39TH FLOOR NEW YORK, NY 10004-2400

www.sedgwicklaw.com 212.422.0202 phone 212.422.0925 fax

**Sedgwick**<sub>LLP</sub>

USDS SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 10/20/11

Thomas Orofino  
thomas.orofino@sedgwicklaw.com

October 19, 2011

**BY FAX**

Honorable Harold Baer  
United States District Court  
Southern District of New York  
500 Pearl Street, Chambers 2230  
New York, New York 10007  
Fax: (212) 805-7901

Re: *Maclaren Europe Limited v. ACE American Insurance Company*  
Case No.: 1:11-cv-04688-HB  
Our File No.: 01560-007753

Dear Judge Baer:

This firm represents the defendant, ACE American Insurance Company ("ACE"), in the above-referenced matter currently pending before the Court. We write in order to respond to your Honor's Endorsement dated October 18, 2011, responding to our letter dated October 14, 2011, which addressed the briefing schedule for ACE's Motion to Dismiss. (See Attachment "A").

On July 28, 2011, ACE filed their Motion to Dismiss. Thereafter, pursuant to your Honor's individual practice rules, we faxed a letter to your Honor advising: (a) ACE had filed the Motion to Dismiss; (b) Plaintiff Maclaren Europe Limited ("Maclaren Europe") had requested an extension, up to and including September 9, 2011, in which to file their opposition papers; (c) ACE's reply would be filed on or before October 10, 2011; and (d) courtesy copies of the fully briefed motion would be submitted to Chambers on October 11, 2011. By Order dated August 16, 2011, your Honor granted Maclaren Europe's request for an extension to file an opposition brief and ordered Maclaren Europe's opposition due by September 9, 2011. (See Attachment "B"). However, Maclaren Europe did not file their opposition brief by the Court's so ordered date of September 9, 2011.

On October 6, 2011, a Pretrial Conference was held. At the outset of the conference, we pointed out that Maclaren had not yet submitted their opposition brief, despite your Honor ordering the brief due on September 9, 2011. Plaintiff's counsel advised that his counterpart in Europe had been on vacation for the past month, thus he was unable to timely file the opposition brief. As your Honor may recall, the fact that Plaintiff had been unable to communicate with his European counterpart was considered and your Honor orally agreed to give Plaintiff additional time to file his opposition brief, despite the original September 9, 2011 due date. Your Honor further instructed the parties to submit a letter with the new briefing schedule.

NY/753860v1

We subsequently received Plaintiff's opposition papers on the evening of Friday, October 7, 2011. This left ACE with only two days over the weekend to complete its reply brief according to the original briefing schedule. As such, we were compelled to enter into a revised briefing schedule to provide adequate time to submit a reply. Accordingly, we sent our letter dated October 14, 2011, in order to memorialize your Honor's agreement to extend the original briefing schedule to accommodate Plaintiff's late opposition, and accordingly, to set sufficient time for ACE's reply brief.

Therefore, given the extension granted to Plaintiff, both parties agree that ACE shall submit their reply brief on or before November 11, 2011. Courtesy copies of the fully briefed motion will be delivered to Chambers on or before November 11, 2011.

Very truly yours,



Thomas Orofino  
Sedgwick LLP

cc: Paul S. Hugel, Esq. Fax: (212) 949-8255  
CLAYMAN & ROSENBERG LLP, Attorneys for Plaintiff

*While your plan sounds reasonable the PTSA is circulate and if you deem such brief motion pages on "11/1" & I take my 60 days (later) I will say show many of my colleagues it will be the middle of January + your fully briefed m/s 11 if any with he deal of or 5 months later - I'm glad to take your pages but my view is that my decision will come while you are given more time at you are given more time at*

SO ORDERED

*Harold Baer, Jr., U.S.D.J.*

*10/20/11*

Endorsement:

While your plan sounds reasonable the pre trial scheduling order is inviolate and if you serve fully briefed motion papers on November 11, 2011 and I take my 60 days (faster I dare say than many of my colleagues) it will be the middle of January and your fully briefed motion for summary judgment if any will be due 4 or 5 months later -I'm glad to take your papers but my view is that my decision will come while you are gearing up for the motion for summary judgment and just provide more hours of work for all of us but suit yourselves.